



# Commonwealth of Massachusetts State Ethics Commission

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SUFFOLK, ss.

COMMISSION ADJUDICATORY  
DOCKET NO. 565

## IN THE MATTER OF STEVEN J. KASETA

### DISPOSITION AGREEMENT

This Disposition Agreement ("Agreement") is entered into between the State Ethics Commission ("Commission") and Steven J. Kaseta ("Kaseta") pursuant to Section 5 of the Commission's *Enforcement Procedures*. This Agreement constitutes a consented to final Commission order enforceable in the Superior Court, pursuant to G.L. c. 268B, §4(j).

On April 11, 1995, the Commission initiated, pursuant to G.L. c. 268B, §4(a), a preliminary inquiry into allegations that Kaseta had violated the conflict of interest law, G.L. c. 268A. The Commission has concluded the inquiry and, on January 15, 1997, voted to find reasonable cause to believe that Kaseta violated G.L. c. 268A, §3(b).

The Commission and Kaseta now agree to the following facts and conclusions of law:

1. During the relevant time, Kaseta was a Massachusetts deputy treasurer. As deputy treasurer, Kaseta was responsible for overseeing the day-to-day administrative activities of the Massachusetts Teachers and Employees Retirement Systems Trust ("the MASTERS Trust").<sup>1/</sup>

2. Goldman, Sachs & Company ("Goldman Sachs"), a Delaware limited partnership, is an investment banking and securities firm with headquarters in New York City. According to the firm's 1995 *Annual Review*, Goldman Sachs' activities and sources of revenue include securities underwriting and distribution; trading of corporate debt and equity securities, United States government and agency securities, non-U.S. sovereign debt and mortgage and municipal securities; execution of swaps and other derivative financial instruments; mergers and acquisitions; financial advisory services for restructuring; private placements, and lease and project financing; real estate brokerage and finance; merchant banking; stock brokerage and research; asset management; and the trading of currency and commodities. Goldman Sachs conducts its business through five operating divisions: Investment Banking, Fixed Income, Equities, Currency and Commodities, and Asset Management. At the end of 1995, Goldman Sachs' assets totaled slightly over \$1 billion.

3. During the relevant time, Daniel J. McCarthy ("McCarthy") was employed as a vice president at Goldman Sachs' Boston Institutional Department, which functions within the Equities Division.

4. During the relevant time, Larry Kohn ("Kohn") was employed as a vice president with Goldman Sachs Asset Management ("GSAM"), a division of Goldman Sachs.

5. In May 1991, the Massachusetts Treasurer's Office issued a Request for Proposals ("RFP") for investment managers for \$595 million in the MASTERS Trust domestic equity pension funds. On May 23, 1991, GSAM submitted a proposal in response to the RFP. In July 1991, the Treasurer's office awarded GSAM a contract to manage \$100 million of these funds. This contract had an effective annual fee of \$400,000 to GSAM.

6. As deputy treasurer, Kaseta was a member of the selection committee which recommended the award of the foregoing contract to GSAM. Furthermore, as a deputy treasurer, Kaseta was responsible for evaluating Goldman Sachs' performance under the contract from the time the contract was awarded in July 1991 to September 1993.<sup>2/</sup> Finally, as deputy a treasurer, Kaseta was in a position along with the Treasurer's other staff to award similar contracts in the future.

7. On two occasions between April 1991 and May 1993, McCarthy entertained Kaseta with meals and theater tickets, Kaseta's pro rata share of which cost \$50 or more. On March 12, 1992, McCarthy provided Kaseta with two tickets to "Man of La Mancha" at the Colonial Theater in Boston, MA. On this same date, McCarthy also provided Kaseta and his guest with dinner at Locke-Ober Restaurant. The total cost of this March 12, 1992, entertainment for Kaseta and his guest was approximately \$130. On December 10, 1992, McCarthy provided Kaseta with drinks and dinner at the Post House Restaurant in New York City. Kaseta's pro rata share of the cost of this December 10, 1992, meal was approximately \$95.

8. Additionally, on December 5, 1991, and June 26, 1992, Kohn provided Kaseta with theater tickets for shows in New York City. The cost of these tickets was approximately \$290.

9. Goldman Sachs reimbursed McCarthy and Kohn for all of the expenses they incurred in entertaining Kaseta. Goldman Sachs viewed the expenses as business expenses warranting reimbursement. In total, Goldman Sachs, through McCarthy and Kohn, provided Kaseta with items of substantial value with an aggregate cost of approximately \$500.

10. Section 3(b) of G.L. c. 268A, the conflict of interest law, prohibits a state employee from, directly or indirectly, receiving anything of substantial value for or because of any official act or act within his official responsibility performed or to be performed by him.

11. As a deputy state treasurer, Kaseta was a state employee.

12. Anything with a value of \$50 or more is of substantial value for §3 purposes.<sup>3/</sup>

13. The decisions and actions by Kaseta regarding the recommending and monitoring of contracts to manage Masters Trust assets were official acts performed or to be performed by him as a deputy treasurer.<sup>4/</sup>

14. Kaseta accepted the above free meals and tickets of substantial value for or because of official acts or acts within his official responsibility performed or to be performed by him. In doing so, Kaseta violated §3(b).<sup>5/</sup>

15. The Commission is aware of no evidence that any of the foregoing entertainment and meals were given to Kaseta with the intent to influence any specific official act by him as a deputy treasurer. The Commission is also aware of no evidence that Kaseta, in return for entertainment and meals, took any official action which would have affected Goldman Sachs. In other words, the Commission is aware of no evidence that there was any quid pro quo. The Commission is aware of no evidence that Kaseta at any time acted in a manner inconsistent with the best interests of the Masters Trust. However, even if Kaseta understood that Goldman Sachs' employees were only intending to create goodwill, Kaseta's receipt of these gratuities was still impermissible.

16. Kaseta fully cooperated with the Commission's investigation.

In view of the foregoing violations of G.L. c. 268A, §3(b), the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Kaseta:

(1) that Kaseta pay to the Commission the sum of \$1,500 as a civil fine for violating G.L. c. 268A, §3(b);

(2) that Kaseta waive all rights to contest the findings of fact, conclusions of law in terms and conditions contained in this agreement in any related administrative or judicial proceeding to which the Commission is or may be a

party.

DATE: June 19, 1997

<sup>1/</sup>The MASTERS Trust is the combined investment fund for state employees and state teachers retirement annuities. G.L. c. 32, §23 establishes a non-paid Pension Investment Committee (“PIC”) to oversee the MASTERS Trust. The day-to-day administrative activities of the trust are carried out by the Massachusetts Treasurer’s Office. The MASTERS trust is a broadly diversified portfolio which stood at \$5.532 billion at the end of February 1991.

<sup>2/</sup>Kaseta resigned from the Treasurer’s office in September 1993.

<sup>3/</sup>*See Commonwealth v. Famigletti*, 4 Mass. App. 584 (1976); *EC-COI-93-14*.

<sup>4/</sup>“Official act,” any decision or action in a particular matter or in the enactment of legislation.

<sup>5/</sup>In determining whether the items of substantial value have been given for or because of official acts or acts within one’s official responsibility, it is unnecessary to prove that the gratuities given were generated by some specific identifiable act performed or to be performed. As the Commission explained in *Advisory No. 8* (issued May 14, 1985):

Even in the absence of any specifically identifiable matter that was, is or soon will be pending before the official, §3 may apply. Thus, where there is no prior social or business relationship between the giver and the recipient, and the recipient is a public official who is in a position to use [his] authority in a manner which could affect the giver, an inference can be drawn that the giver was seeking the goodwill of the official because of a perception by the giver that the public official’s influence could benefit the giver. In such a case, the gratuity is given for his yet unidentifiable “acts to be performed.”